

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

STATE OF OHIO, ex rel.
DAVID P. JOYCE
PROSECUTING ATTORNEY OF GEAUGA
COUNTY, OHIO,

Case No. 1:11-cv-02474-JG

Plaintiff,

Hon. James Gwin

v.

MERSCORP, INC., et al.,

Defendants.

**ANSWER AND AFFIRMATIVE DEFENSES OF MGIC INVESTOR SERVICES
CORPORATION**

Defendant MGIC Investor Services Corporation (“MISC”) by its undersigned attorneys, for its answer and affirmative defenses in this action, admits, denies, alleges and shows as follows. MISC’s responses are made without waiving, and expressly reserving, MISC’s arguments as stated in the Motion to Dismiss filed on December 12, 2011. MISC reserves all rights to file additional dispositive motions.

1. Paragraph 1 of the Complaint presents a summary of the action, to which a response is not required. To the extent a response is required, MISC denies the allegations in paragraph 1 of the Complaint.

2. Paragraph 2 of the Complaint presents conclusions of law, to which a response is not required. To the extent a response is required, MISC denies the allegations in paragraph 2 of the Complaint.

3. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 3 of the Complaint and on that basis denies them.

4. MISC denies the allegations in paragraph 4 of the Complaint to the extent the allegations are against MISC. To the extent the allegations are against other Defendants, MISC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 4 of the Complaint and on that basis denies them.

5. MISC denies the allegations in paragraph 5 of the Complaint to the extent the allegations are against MISC. To the extent the allegations are against other Defendants, MISC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 5 of the Complaint and on that basis denies them.

6. MISC denies the allegations in paragraph 6 of the Complaint to the extent the allegations are against MISC. To the extent the allegations are against other Defendants, MISC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6 of the Complaint and on that basis denies them.

7. MISC denies the allegations in paragraph 7 of the Complaint to the extent the allegations are against MISC. To the extent the allegations are against other Defendants, MISC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7 of the Complaint and on that basis denies them.

8. MISC denies the allegations in paragraph 8 of the Complaint to the extent the allegations are against MISC. To the extent the allegations are against other Defendants, MISC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8 of the Complaint and on that basis denies them.

9. Paragraph 9 of the Complaint presents conclusions of law, to which a response is not required. To the extent a response is required, MISC denies the allegations in paragraph 9 of the Complaint. MISC further refers Plaintiff to Notice of Removal of this action.

10. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 10 of the Complaint and on that basis denies them. MISC further refers Plaintiff to Notice of Removal of this action.

11. MISC admits that one of Ohio's counties is Geauga County. The remaining allegations are conclusions of law to which response is not required. To the extent a response is required, MISC denies the allegations in paragraph 11.

12. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 12 of the Complaint and on that basis denies them.

13. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 13 of the Complaint and on that basis denies them.

14. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 14 of the Complaint and on that basis denies them.

15. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 15 of the Complaint and on that basis denies them.

16. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 16 of the Complaint and on that basis denies them.

17. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 17 of the Complaint and on that basis denies them.

18. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 18 of the Complaint and on that basis denies them.

19. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 19 of the Complaint and on that basis denies them.

20. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 20 of the Complaint and on that basis denies them.

21. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 21 of the Complaint and on that basis denies them.

22. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 22 of the Complaint and on that basis denies them.

23. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 23 of the Complaint and on that basis denies them.

24. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 24 of the Complaint and on that basis denies them.

25. MISC admits that MGIC Investor Services Corporation (not MGIC Investors Services Corporation, as alleged in the Complaint) is a subsidiary of MGIC Investment Corporation. MISC further admits that MGIC Investor Services Corporation is organized under the laws of Wisconsin and maintains its principal place of business at 250 E. Kilbourn Ave., Milwaukee, Wisconsin, 53202. MISC further admits that MGIC Investor Services Corporation conducts business in Ohio and that its registered agent in Ohio is National Registered Agents, Inc., 145 Baker Street, Ohio 43302.

26. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 26 of the Complaint and on that basis denies them.

27. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 27 of the Complaint and on that basis denies them.

28. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 28 of the Complaint and on that basis denies them.

29. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 29 of the Complaint and on that basis denies them.

30. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 30 of the Complaint and on that basis denies them.

31. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 31 of the Complaint and on that basis denies them.

32. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 32 of the Complaint and on that basis denies them.

33. MISC admits the allegations in paragraph 33 of the Complaint.

34. Paragraph 34 of the Complaint presents conclusions of law, to which a response is not required. To the extent a response is required, MISC denies the allegations in paragraph 34 of the Complaint.

35. Paragraph 35 of the Complaint presents conclusions of law, to which a response is not required. To the extent a response is required, MISC denies the allegations in paragraph 35 of the Complaint.

36. MISC admits the allegations of paragraph 36 of the Complaint.

37. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 37 of the Complaint and on that basis denies them.

38. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 38 of the Complaint and on that basis denies them.

39. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 39 of the Complaint and on that basis denies them.

40. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 40 of the Complaint and on that basis denies them.

41. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 41 of the Complaint and on that basis denies them.

42. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 42 of the Complaint and on that basis denies them.

43. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 43 of the Complaint and on that basis denies them.

44. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 44 of the Complaint and on that basis denies them.

45. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 45 of the Complaint and on that basis denies them.

46. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 46 of the Complaint and on that basis denies them.

47. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 47 of the Complaint and on that basis denies them.

48. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 48 of the Complaint and on that basis denies them. Paragraph 48 of the Complaint also presents conclusions of law, to which a response is not required. To the extent a response is required, MISC denies the allegations in paragraph 48 of the Complaint.

49. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 49 of the Complaint and on that basis denies them.

50. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 50 of the Complaint and on that basis denies them. Paragraph 50 of the Complaint also presents conclusions of law, to which a response is not required. To the extent a response is required, MISC denies the allegations in paragraph 50 of the Complaint.

51. Paragraph 51 of the Complaint presents conclusions of law, to which a response is not required. To the extent a response is required, MISC denies the allegations in paragraph 51 of the Complaint.

52. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 52 of the Complaint and on that basis denies them. MISC further denies that the allegations in the Complaint meet the requirements for class certification under Ohio or Federal Rules of Civil Procedure.

53. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 53 of the Complaint and on that basis denies them. MISC further denies that the allegations in the Complaint meet the requirements for class certification under Ohio or Federal Rules of Civil Procedure.

54. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 54 of the Complaint and on that basis denies them. MISC further denies that the allegations in the Complaint meet the requirements for class certification under Ohio or Federal Rules of Civil Procedure.

55. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 55 of the Complaint and on that basis denies them. MISC further

denies that the allegations in the Complaint meet the requirements for class certification under Ohio or Federal Rules of Civil Procedure.

56. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 56 of the Complaint and on that basis denies them. MISC further denies that the allegations in the Complaint meet the requirements for class certification under Ohio or Federal Rules of Civil Procedure.

57. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 57 of the Complaint and on that basis denies them. MISC further denies that the allegations in the Complaint meet the requirements for class certification under Ohio or Federal Rules of Civil Procedure.

58. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 58 of the Complaint and on that basis denies them. MISC further denies that the allegations in the Complaint meet the requirements for class certification under Ohio or Federal Rules of Civil Procedure.

59. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 59 of the Complaint and on that basis denies them. MISC further denies that the allegations in the Complaint meet the requirements for class certification under Ohio or Federal Rules of Civil Procedure.

60. MISC realleges and incorporates, as if fully set forth herein, its answers to each and every allegation contained in paragraphs 1 through 59 of the Complaint.

61. Paragraph 61 of the Complaint presents conclusions of law, to which a response is not required. To the extent a response is required, MISC denies the allegations in paragraph 61 of the Complaint.

62. MISC denies the allegations in paragraph 62 of the Complaint.

63. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 63 of the Complaint and on that basis denies them. MISC specifically denies that Plaintiff is entitled to a declaratory judgment that Defendants are required to record each and every mortgage and mortgage assignment on real property located in Ohio.

64. MISC lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 64 of the Complaint and on that basis denies them. MISC specifically denies that Plaintiff is entitled to an injunction compelling the Defendants to record each and every mortgage and mortgage assignment on real property located in Ohio.

65. MISC realleges and incorporates, as if fully set forth herein, its answers to each and every allegation contained in paragraphs 1 through 64 of the Complaint.

66. MISC denies the allegations in paragraph 66 of the Complaint.

67. MISC denies the allegations in paragraph 67 of the Complaint.

68. MISC denies the allegations in paragraph 68 of the Complaint.

69. MISC denies the allegations in paragraph 69 of the Complaint.

AFFIRMATIVE DEFENSES

1. MISC pleads the following affirmative defenses. As this case is on-going and additional facts or law may be discovered, MISC specifically reserves the right to add additional affirmative defenses at any time prior to final adjudication. MISC incorporates the affirmative statements of its answers (above) as if fully restated here in support of its affirmative defenses.

2. Plaintiff's claims are barred, in whole or in part, by estoppel, waiver, laches.

3. Plaintiff's claims are barred, in whole or in part, by the applicable statutes of limitations.

4. Plaintiff's claims are barred, in whole or in part, because MISC's conduct was privileged or otherwise consistent with the federal and state regulatory approvals.

5. Plaintiff's claims are barred, in whole or in part, because the Plaintiff ratified and approved the actions complained of.

WHEREFORE, Defendant MGIC Investor Services Corporation respectfully requests that the Court enter judgment in its favor as follows:

- A. Dismissal of the Complaint in its entirety with prejudice;
- B. An award of costs and attorney's fees to Defendant MGIC Investor Services Corporation
- C. Such other relief as my be just or equitable.

Dated: December 12, 2011

Respectfully submitted,

/ s/ Anthony J. Coyne

Anthony J. Coyne (0039605)

Michael P. Quinlan (0066718)

MANOUR, GAVIN, GERLACK & MANOS CO., LPA

55 Public Square, Suite 2150

Cleveland, OH 44113-1994

Telephone: (216) 523-1500

Facsimile: (216) 523-1705

acoynemggmlpa.com

mquinlan@mggmlpa.com

Attorneys for Defendant MGIC Investor Services Corp.

CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2011, a copy of the foregoing was electronically filed. Notice of this filing will be sent to counsel of record for all parties by operation of the Court's Electronic Filing System. Parties and their counsel may access this filing through the Court's Electronic Filing System.

/s/ Anthony J. Coyne

Anthony J. Coyne (0039605)

MANSOUR, GAVIN, GERLACK & MANOS CO., LPA